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**Notice of Allowability**

Application No.

10/807,115

Applicant(s)

KAPPELER ET AL.

Examiner

Art Unit

Elizabeth Slobodyansky, PhD

1652

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment 22 February 2007.
2. ☒ The allowed claim(s) is/are 1-19.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>2/22/07</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                  | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### **DETAILED ACTION**

The amendment filed February 22, 2007 amending claim 11 has been entered.

Claims 1-19 are pending.

The statement regarding the availability of the biological deposit of CBS 108915 and 108916 is given in Remarks filed February 22, 2007, page 13, last paragraph. This overcomes the 112, 1<sup>st</sup> paragraph rejection of claims 11 and 14.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Iver Cooper on May 3, 2007.

The application has been amended as follows:

#### **IN THE SPECIFICATION:**

On page 1, 1<sup>st</sup> paragraph immediately after the title (as inserted on 3/24/04),  
replace "now pending" with --now abandoned--.

#### **IN THE CLAIMS:**

In claim 1,

line 3,

replace "coding for" with --encoding-- after "sequence";

line 7,

delete "such";

line 8,

insert --of a mammal of the suborder Tylopoda-- after "chymosin".

In claim 4, line 1,

replace "A host cell transferred" with --An isolated host cell transformed--.

In claim 7, line 2,

replace "codes for" with --encodes--.

In claim 9, line 3,

delete "over the host cell membrane".

In claim 10,

line 2,

replace "is identical to" with --comprises--;

lines 2-3,

delete "except that said DNA construct comprises a different coding sequence" after "pGAMpR".

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The 112, 1<sup>st</sup> paragraph rejections are withdrawn because Applicants showed that suborder *Tylopoda* comprises only one family "Camelidae which in turn consists of three genera, and a total of six species" (Remarks of 2/22/07, page 7). They further showed that the prochymosin sequence identity among 4 of these species lies in the 98% range (page 8). Because of that the *Camelus dromedarius* prochymosin is considered to be sufficient to represent the entire genus of *Tylopoda* prochymosins.

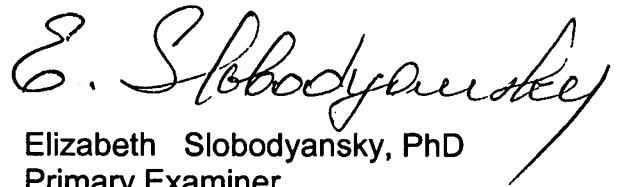
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Slobodyansky, PhD whose telephone number is 571-272-0941. The examiner can normally be reached on M-F 10:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, PhD can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "E. Slobodyansky", with a long, sweeping horizontal stroke extending to the right.

Elizabeth Slobodyansky, PhD  
Primary Examiner  
Art Unit 1652

May 3, 2007